

Article 7.

Dispositions.

**§ 146-27. The role of the Department of Administration in sales, leases, and rentals.**

(a) General. – Every sale, lease, rental, or gift of land owned by the State or by any State agency shall be made by the Department of Administration and approved by the Governor and Council of State. A lease or rental of land owned by the State may not exceed a period of 99 years. The Department of Administration may initiate proceedings for sales, leases, rentals, and gifts of land owned by the State or by any State agency.

(b) Large Disposition. – If a proposed disposition is a sale or gift of land with an appraised value of at least twenty-five thousand dollars (\$25,000), the sale or gift shall not be made until after consultation with the Joint Legislative Commission on Governmental Operations.

(c) Expired effective September 1, 2007. (1957, c. 584, s. 6; G.S., s. 146-108; 1959, c. 683, s. 1; 1977, c. 425, ss. 1, 2; 1987, c. 738, s. 47(b); 1993, c. 561, s. 32(a); 1998-159, s. 5; 2005-276, s. 6.25(a).)

**§ 146-28. Agency must file application with Department; Department must investigate.**

Any State agency desiring to sell, lease, or rent any land owned by the State or by any State agency shall file with the Department of Administration an application setting forth the facts relating to the proposed transaction, and shall furnish the Department with such additional information as the Department may request relating thereto. Upon receipt of such application, the Department of Administration shall promptly investigate all aspects of the proposed transaction, including particularly present and future State need for the land proposed to be conveyed, leased, or rented. (1957, c. 584, s. 6; G.S., s. 146-109; 1959, c. 683, s. 1.)

**§ 146-29. Procedure for sale, lease, or rental.**

(a) General Procedure. – If, after investigation, the Department of Administration determines that it is in the best interest of the State that land be sold, leased, or rented, the Department shall proceed with its sale, lease, or rental, as the case may be, in accordance with rules adopted by the Governor and approved by the Council of State. If an agreement of sale, lease, or rental is reached, the proposed transaction shall then be submitted to the Governor and Council of State for their approval or disapproval. Every conveyance in fee of land owned by the State or by any State agency shall be made and executed in the manner prescribed in G.S. 146-74 through 146-78.

(b) Limitations on Certain Leases. – The Department of Administration shall not enter into a lease or lease renewal of the following types unless specifically authorized to do so by the General Assembly:

- (1) A lease of real property for a period of more than 30 years, or a renewal of a lease of real property, if the renewal would make the total term of the lease exceed 30 years.
- (2) A lease of real property, or a renewal of a lease of real property, for any term if both of the following conditions are satisfied:
  - a. State personnel or State functions would need to be relocated as a result of the lease or renewal.

- b. The agency to which the property is currently allocated possesses insufficient operating funds to cover the cost of both the relocation and the ongoing provision of State functions affected by the relocation.

(c) **Reporting Required.** – The Department of Administration shall report to the Joint Legislative Commission on Governmental Operations at least 30 days prior to entering or renewing any lease described in subdivision (b)(1) of this section or any lease or renewal that will require the relocation of State personnel or State functions. The report shall include all of the following:

- (1) If the lease or lease renewal will require State personnel or State functions to be relocated, a statement of the legislation authorizing the lease or lease renewal or a detailed statement of the operating funds that will be used to cover the cost of both the relocation and the ongoing provision of State functions affected by the relocation, as applicable.
  - (2) If the lease or lease renewal will have a term of more than 30 years, a statement of the legislation authorizing the lease or lease renewal.
- (d) **Exemptions.** – This section shall not apply to the following:
- (1) The granting of utility easements, including the lease of interests in real property pursuant to G.S. 146-29.2.
  - (2) Leases for student housing projects, including a ground lease to a university endowment for the purpose of facilitating the construction of student housing.
  - (3) Leases made as part of the Voice Interoperability Plan for Emergency Responders (VIPER) project being managed by the Department of Public Safety. (1957, c. 584, s. 6; G.S., s. 146-110; 1959, c. 683, s. 1; 2016-94, s. 37.7(b).)

**§ 146-29.1. Lease or sale of real property for less than fair market value.**

(a) Real property owned by the State or any State agency may not be sold, leased, or rented at less than fair market value to any private entity that operates, or is established to operate for profit.

(b) Real property owned by the State or by any State agency may be sold, leased, or rented at less than fair market value to a public entity. "Public entity" means a county, municipal corporation, local board of education, community college, special district or other political subdivision of the State and the United States or any of its agencies. Any such sale, lease, or rental shall be reported at least 30 days prior to the sale, lease, or rental to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division of the Legislative Services Office, with the details of such transaction.

(c) Real property owned by the State or by any State agency may be sold, leased, or rented at less than market value to a private, nonprofit corporation, association, organization or society if the Department of Administration determines both of the following:

- (1) The transaction is in consideration of public service rendered or to be rendered by the nonprofit.
- (2) The property will be used in connection with the nonprofit's tax-exempt purpose and not in connection with its unrelated trade or business, as defined in section

513 of the Code. For the purposes of this subdivision, the term "Code" has the same meaning as in G.S. 105-228.90.

The transaction shall be reported in detail at least 30 days prior to the sale, lease, or rental to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division of the Legislative Services Office. The fact that any sale of property under this subsection shall not be subject to a reversionary interest in the State shall be expressly made known to the Joint Legislative Commission on Government Operations, and the Governor and Council of State, prior to the transaction being authorized.

(d) Any sale, lease, or rental of real property made in conformity with the provisions of this section is not a violation of G.S. 66-58(a).

(e) All sales, leases, or rentals, prior to July 15, 1986, of real property owned by the State or any State agency are not invalid because of a conflict with G.S. 66-58(a) or with a prior version of this section, but any renewal of any such lease or rental agreement on or after July 15, 1986, shall conform to the requirements of this section.

(f) If the fair market value of State-owned real property exceeds one million dollars (\$1,000,000), a gift of any interest in the property or a sale, lease, or rental of any interest in the property for below fair market value shall not be effective until the later of the following:

- (1) If a bill that specifically disapproves the transaction is introduced in either house of the General Assembly before the 31st legislative day of the next regular session of the General Assembly that begins at least 25 days after the date that the agreement making the transfer is entered into, the earlier of (i) the day that an unfavorable final action is taken on the bill or (ii) the day that the General Assembly adjourns without ratifying the bill.
- (2) The 31st legislative day of the session of the General Assembly described in subdivision (1) of this section, if a bill disapproving the transaction is not introduced before that day.

(f1) For the purpose of subsection (f) of this section:

- (1) "Next regular session" means:
  - a. For odd-numbered years its initial convening.
  - b. For even-numbered years the first reconvening of the regular session as provided in the joint resolution setting the date for reconvening.
- (2) "Adjourns" means:
  - a. For odd-numbered years the date the General Assembly adjourns by joint resolution for a period of more than 30 days.
  - b. For even-numbered years the date of sine die adjournment.

(f2) If the transaction is approved under subsection (f) of this section, but the agreement provides a later effective date, then it takes effect on the date specified in the agreement.

(f3) Nothing in subsection (f) of this section restricts the General Assembly from enacting a law specifically approving the transaction.

(g) If the General Assembly ratifies a disapproving bill, the disapproved transaction shall not be effective unless it is vetoed by the Governor and the veto is not overridden, and in such case the transaction is effective upon sine die adjournment of that regular session.

The terms of any agreement to transfer an interest in real property under this section are deemed to incorporate the provisions of subsections (f) through (f2) of this section, and any transaction that does not comply with these subsections is void.

(h) Any lease or rental entered into pursuant to this section shall be subject to the requirements and limitations of G.S. 146-29. (1985, c. 479, s. 172(a); 1985 (Reg. Sess., 1986), c. 1014, s. 188(a); 1993, c. 561, s. 32(c); 1999-252, s. 2; 2013-360, s. 36.8(a); 2016-94, s. 37.7(c).)

**§ 146-29.2. Lease or interest in real property for communication purposes.**

(a) The following definitions apply in this section:

- (1) Antenna. – Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.
- (1a) Applicable codes. – The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization together with amendments to those codes enacted to address imminent threats of destruction of property or injury to persons.
- (1b) Broadband. – Internet access service with transmission speeds that are equal to or greater than the requirements for basic broadband tier 1 service as defined by the Federal Communications Commission for broadband data gathering and reporting, regardless of the technology or medium used to provide the service.
- (2) Buildings. – Structures owned or leased by the State on which equipment may be placed or attached.
- (3) Collocation. – The placement or installation of wireless or broadband facilities on existing structures, including electrical transmission towers, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless or broadband facilities in compliance with applicable codes.
- (4) Equipment. – Antennas, transmitters, receivers, cables, wires, transformers, power supplies, electric and communication lines necessary for the provision of television broadcast signals, radio wave signals, wireless data or wireless telecommunication services, or broadband to a discrete geographic area, and all other apparatuses and appurtenances, including shelters, cabinets, buildings, platforms, and ice bridges used to house or otherwise protect equipment.
- (5) Ground area. – The area of real property surrounding the base of towers on which the equipment and appurtenances necessary for the operation and stability of the towers, including guy wires and security fencing, are constructed or installed.
- (6) Provider. – Any person that is engaged in the transmission, reception, or dissemination of television broadcast signals, radio wave signals, or electromagnetic radio signals used in the provision of wireless communications service, or the provisioning of wireless infrastructure. The term also includes any person engaged in the provision of broadband.
- (7) Tower. – New or existing structures, such as a monopole, lattice tower, guyed tower, fire observation tower or water tower that are designed to support or are capable of supporting equipment used in the transmission or receipt of

television broadcast signals, radio wave signals, or electromagnetic radio signals used in the provision of wireless communication service.

(b) The State may lease real property, or may grant an easement or license with an interest in real property for the following communication purposes:

- (1) Constructing, installing, and operating towers and equipment on State land.
- (2) Installing and operating equipment on towers, buildings, or ground area owned or leased by the State.

(b1) The State shall allow the collocation, installation, and operation of equipment by a broadband provider on any existing structure owned by the State and shall lease real property, or grant an easement or license with an interest in real property, for the purposes of construction and placement of broadband infrastructure on State land. A disposition entered into pursuant to this subsection is voidable by the Governor and Council of State for specific reasons or causes that shall be cited.

(c) New towers constructed on State land shall be designed for collocation. The State shall sublease for collocation purposes space on any tower or ground area leased by the State, if allowed under the terms of the lease. The State shall adopt standard terms and conditions for applications to lease, easements, or other conveyances of an interest in real property for communication purposes and the deployment of broadband.

(d) Pursuant to G.S. 143-341(4)f., the Governor, acting with the approval of the Council of State, may adopt rules authorizing the Department of Administration to enter into or approve classes of leases, easements, or licenses with an interest in real property for the purposes set forth in this section. The rules may allow for execution of leases or other instruments by the Department of Administration rather than execution of the instruments in the manner prescribed in G.S. 146-74 through G.S. 146-78.

(e) Land in the State Parks System, as defined in G.S. 143B-135.44, may only be leased or conveyed for the purposes of this section upon the approval of the Secretary of the Department of Natural and Cultural Resources. Lease or conveyance of land in the State Parks System for the purposes of this section shall comply with the requirements of Parts 31 and 32 of Article 7 [Article 2] of Chapter 143B of the General Statutes. When selecting a location for a communications tower or antenna in the State Parks System, the State shall choose a location that minimizes the visual impact on the surrounding landscape. No land acquired or developed using funds from the Federal Land and Water Conservation Fund shall be leased or conveyed for the purposes of this section.

(f) City and county ordinances apply to communications towers and antennas authorized under this section. (1998-158, s. 3; 2013-185, s. 3; 2015-241, s. 14.30(nnn); 2018-5, s. 37.1(f).)

### **§ 146-30. Application of net proceeds.**

(a) The net proceeds of any disposition made in accordance with this Subchapter shall be handled in accordance with the following priority: First, in accordance with the provisions of any trust or other instrument of title whereby title to such real property was heretofore acquired or is hereafter acquired; second, as provided by any other act of the General Assembly; third, the net proceeds shall be deposited with the State Treasurer.

Provided, however, nothing herein shall be construed as prohibiting the disposition of any State lands by exchange for other lands, but if the appraised value in fee simple of any property involved in the exchange is at least twenty-five thousand dollars (\$25,000), then such exchange may not be made without consultation with the Joint Legislative Commission on Governmental Operations.

(a1) Expired January 1, 2016, pursuant to Session Laws 2011-373, s. 2.

(b) For the purposes of this Subchapter, the term "net proceeds" means the gross amount received from the sale, lease, rental, or other disposition of any State lands, less

(1) Such expenses incurred incident to that sale, lease, rental, or other disposition as may be allowed under rules and regulations adopted by the Governor and approved by the Council of State; and

(2) Repealed by Session Laws 1993, c. 553, s. 52.2.

(3) A service charge to be paid into the State Land Fund.

(b1) Notwithstanding the other provisions of this section, no service charge into the State Land Fund shall be deducted from or levied against the proceeds of any disposition by lease, rental, or easement of State lands that are designated as part of the Centennial Campus as defined by G.S. 116-198.33(4), that are designated as part of the Horace Williams Campus as defined by G.S. 116-198.33(4a), or that are designated as part of a Millennial Campus as defined by G.S. 116-198.33(4b). All net proceeds of those dispositions are governed by G.S. 116-36.5.

(b2) Notwithstanding the other provisions of this section, no service charge into the State Land Fund shall be deducted from or levied against the proceeds of any disposition by lease, rental, or easement of State lands purchased and owned by the North Carolina State Highway Patrol, Department of Public Safety, as part of the Voice Interoperability Plan for Emergency Responders (VIPER) project being managed by the North Carolina State Highway Patrol, Department of Public Safety. All net proceeds of these dispositions shall be deposited into an account created in the Department of Public Safety to be used only for the purpose of constructing, maintaining, or supporting the VIPER network.

(b3) Notwithstanding the other provisions of this section, no service charge into the State Land Fund shall be deducted from or levied against the proceeds of any disposition by lease, rental, or easement of State lands or structures for the collocation, installation, or operation of equipment by a broadband provider on an existing structure owned by the State in accordance with G.S. 146-29.2. The agency that owns the land or structure subject to the lease, rental, or easement may retain an amount not to exceed four percent (4%) of the amount of the lease, rental, or easement. All net proceeds of those dispositions, after the amount retained by the agency, shall be deposited in the Growing Rural Economies with Access to Technology Fund established pursuant to subsection (b) of G.S. 143B-1373.

(c) The amount or rate of such service charge shall be fixed by rules and regulations adopted by the Governor and approved by the Council of State, but as to any particular sale, lease, rental, or other disposition, it shall not exceed ten percent (10%) of the gross amount received from such sale, lease, rental, or other disposition. Notwithstanding any other provision of this Subchapter, the net proceeds derived from the sale of land or products of land owned by or under the supervision and control of the Wildlife Resources

Commission, or acquired or purchased with funds of that Commission, shall be paid into the Wildlife Resources Fund. Provided, however, the net proceeds derived from the sale of land or timber from land owned by or under the supervision and control of the Department of Agriculture and Consumer Services shall be deposited with the State Treasurer in a capital improvement account to the credit of the Department of Agriculture and Consumer Services, to be used for such specific capital improvement projects or other purposes as are provided by transfer of funds from those accounts in the Capital Improvement Appropriations Act. Provided further, the net proceeds derived from the sale of park land owned by or under the supervision and control of the Department of Natural and Cultural Resources shall be deposited with the State Treasurer in a capital improvement account to the credit of the Department of Administration to be used for the purpose of park land acquisition as provided by transfer of funds from those accounts in the Capital Improvement Appropriations Act. In the Capital Improvement Appropriations Act, line items for purchase of park and agricultural lands will be established for use by the Departments of Administration and Agriculture. The use of such funds for any specific capital improvement project or land acquisition is subject to approval by the Director of the Budget. No other use may be made of funds in these line items without approval by the General Assembly except for incidental expenses related to the project or land acquisition. Additionally with the approval of the Director of the Budget, either Department may request funds from the Contingency and Emergency Fund when the necessity of prompt purchase of available land can be demonstrated and funds in the capital improvement accounts are insufficient. Provided further, the net proceeds derived from the sale of any portion of the land owned by the State in or around the Butner Reservation on or after July 1, 1980, shall be deposited with the State Treasurer in a capital improvement account to the credit of the Department of Health and Human Services to make capital improvements on or to property owned by the State in the Butner Reservation subject to approval by the Office of State Budget and Management, and may be used to build industrial access roads to industries located or to be located on the Butner Reservation, to construct new city streets in the Butner Reservation, extend water and sewer service on the Butner Reservation, repair storm drains on the Butner Reservation, and for other capital uses on the Reservation as determined by the Secretary. Provided further, notwithstanding any other provision of this Subchapter, the proceeds derived from the lease dispositions of land or facilities owned or under the supervision and control of East Carolina University's Division of Health Sciences for the delivery of health care services shall be deposited in clinical accounts at East Carolina University to be used to improve access to patient care. Provided further, notwithstanding any other provision of this Subchapter, the net proceeds derived from the sale of land or facilities purchased with funds from the State Highway Fund shall be deposited into the State Highway Fund. (1959, c. 683, s. 1; 1975, 2nd Sess., c. 983, s. 30; 1977, c. 771, s. 4; c. 1012; 1979, c. 608, s. 1; 1981, c. 859, s. 23.4; c. 1127, s. 33; 1981 (Reg. Sess., 1982), c. 1282, s. 24; 1983, c. 717, ss. 86, 86.1, 86.2, 87; c. 761, s. 166; 1983 (Reg. Sess., 1984), c. 1034, s. 164; c. 1116, s. 97(d); 1989, c. 727, s. 218(155); c. 799, s. 26; 1993, c. 321, s. 260.1; c. 553, s. 52.2; 1997-261, s. 109; 1997-443, s. 11A.119(a); 1998-159, s. 4; 1999-234, s. 8; 2000-140, s. 93.1(a); 2000-177, s. 9; 2001-424, s. 12.2(b);

2007-269, s. 12; 2009-376, s. 15; 2011-145, s. 19.1(g); 2011-373, ss. 1, 2; 2012-194, s. 67; 2015-241, s. 14.30(w); 2018-5, ss. 34.12(a), 37.1(g).)

**§ 146-30.1. Application of net proceeds of disposition or use of real property allocated to the 4-H Camping Program.**

(a) Limitation. – Notwithstanding G.S. 146-30 or any other provision of law, and subject to the limitations contained in any applicable deed, the net proceeds of any disposition of, use of, or activity on real property allocated to the 4-H Camping Program shall be used solely for the operation of the 4-H Camping Program, for the acquisition of real property for the 4-H Camping Program, or for the funding of an endowment to support these purposes. These proceeds shall not be used to pay any debt or other financial obligation owed to a State agency that arose prior to the effective date of this section.

(b) Definition of Net Proceeds. – For purposes of this section, the term "net proceeds" shall have the same meaning as in G.S. 146-30.

(c) No Supplanting of General Fund Support. – It is the intent of the General Assembly that appropriations for the 4-H Camping Program not be reduced as a result of the realization of proceeds under this section. Instead, the General Assembly intends that the amount of appropriations be determined as if no proceeds had been realized under this section. The Director of the Budget shall not decrease the recommended continuation budget requirements for the 4-H Camping Program as a result of proceeds being realized under this section.

(d) Proceeds Must Be Appropriated. – Nothing in this section shall be construed to appropriate the proceeds described in this section. (2014-100, s. 11.7(b).)